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HOUSE BILL 563

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

James G. Taylor

AN ACT

RELATING TO TAXATION; IMPOSING AN EXCISE TAX ON LOW-NUTRITION
FOODS SOLD BY VENDING MACHINES ON SCHOOL DISTRICT PROPERTY;
PROVIDING FOR DISTRIBUTION OF SCHOOL VENDING MACHINE EXCISE TAX
REVENUES TO SUPPORT PHYSICAL EDUCATION AND NUTRITION PROGRAMS
IN THE PUBLIC SCHOOLS; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. ~~[NEW MATERIAL]~~ SHORT TITLE. -- Sections 1
through 5 of this act may be cited as the "School Vending
Machine Excise Tax Act".

Section 2. ~~[NEW MATERIAL]~~ DEFINITIONS. -- As used in the
School Vending Machine Excise Tax Act:

A. "candy" means a preparation of sugar, honey or
other natural or artificial sweetener in combination with
chocolate, fruit, nuts or other ingredients or flavorings in

underscored material = new
[bracketed material] = delete

1 the form of bars, drops or pieces;

2 B. "department" means the taxation and revenue
3 department, the secretary of taxation and revenue or an
4 employee of the department exercising authority lawfully
5 delegated to that employee by the secretary;

6 C. "gross receipts" means the total amount of money
7 or the value of other consideration received from selling
8 property in New Mexico. In an exchange in which the money or
9 other consideration received does not represent the value of
10 the property or service exchanged, "gross receipts" means the
11 reasonable value of the property or service exchanged;

12 D. "minimally nutritious snack" means a package of
13 food that:

14 (1) provides less than five percent of the
15 recommended daily allowance per serving of protein, vitamin A,
16 vitamin C, niacin, riboflavin, thiamine, calcium and iron;

17 (2) derives more than thirty-five percent of
18 its total calories from fat, excepting nuts or seeds;

19 (3) derives more than ten percent of its total
20 calories from saturated fats; or

21 (4) is composed of more than twenty percent
22 sugar by weight, other than fresh fruits or berries; and

23 E. "non-healthy beverage" means a nonalcoholic
24 flavored beverage, but does not include an unsweetened beverage
25 that contains greater than fifty percent by volume of vegetable

1 or fruit juice or one hundred percent milk, soy, rice or
2 similar milk substitute.

3 Section 3. [NEW MATERIAL] SCHOOL VENDING MACHINE EXCISE
4 TAX--RATE AND IMPOSITION. --

5 A. An excise tax to be known as the "school vending
6 machine excise tax" is imposed on the owner of a vending
7 machine that dispenses for sale candy, minimally nutritious
8 snacks or non-healthy beverages and that is located in a public
9 school in the state.

10 B. The excise tax shall be equal to ten percent of
11 the gross receipts attributable to the sale of the candy,
12 minimally nutritious snacks and non-healthy beverages from
13 vending machines located in a public school in the state.

14 Section 4. [NEW MATERIAL] DATE PAYMENT DUE.--The school
15 vending machine excise tax shall be paid on or before the
16 twenty-fifth day of the month following the month in which the
17 taxable event occurs.

18 Section 5. [NEW MATERIAL] INTERPRETATION OF ACT--
19 ADMINISTRATION AND ENFORCEMENT OF TAX. --

20 A. The department shall administer the provisions
21 of the School Vending Machine Excise Tax Act and administer and
22 enforce the collection of the school vending machine excise
23 tax.

24 B. The Tax Administration Act applies to the
25 administration and enforcement of the tax.

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